

International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada, Local No. 249 and General Cinema Corporation of Texas, Lowe's Theatre and Clearing Corp., and Plitt Southern Theatres, Inc. Case 16-CB-1752

December 6, 1982

ORDER DENYING MOTION

**BY MEMBERS FANNING, JENKINS, AND
ZIMMERMAN**

On June 4, 1982, the National Labor Relations Board issued an unpublished Order in the above-entitled proceeding, in which it rejected a document submitted by Respondent as failing to comply with Section 102.46(b) of the Board's Rules and Regulations, Series 8, as amended, concerning exceptions to the Administrative Law Judge's Decision.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

On June 25, 1982, Respondent filed a motion for reconsideration.

Respondent, in its motion for reconsideration, presses its alleged "exceptions" to the Decision of the Administrative Law Judge dismissing the complaint against Respondent, in its entirety. In our earlier decision, referred to above, we found that Respondent's "exceptions" did not meet the requirements of Section 102.46(b) of the Board's Rules and Regulations in that they failed to identify any portion of the Administrative Law Judge's

Decision to which Respondent objected. Indeed, Respondent could not make such an identification, because the Administrative Law Judge had ruled entirely in Respondent's favor. Respondent complained then, and complains now, that the Administrative Law Judge did not make certain additional rulings, or comments, that Respondent would have found favorable or helpful in the conduct of its bargaining relationship with the Charging Party.

Respondent concedes that the subject matter of its exceptions was not contained in the complaint, but alleges that the issues involved were litigated by the parties at the hearing on the complaint. In our earlier ruling we found these issues not to have been so litigated.¹

Having duly considered the matter, the Board finds that Respondent's motion totally lacks merit and addresses no issue not previously considered by the Board.²

Accordingly, it is hereby ordered that Respondent's motion for reconsideration be, and it hereby is, denied as lacking in merit and containing no issue not previously considered.

¹ Member Zimmerman finds that Respondent's "exceptions" when initially filed were frivolous because Respondent could not and did not object to any portion of the Administrative Law Judge's Decision. The reiteration of such frivolous contentions through a motion for reconsideration abuses the processes of this Board. Accordingly, Member Zimmerman would assess an amount of \$100 against Respondent to cover a portion of the expenditure of Board resources involved in responding to Respondent's wasteful actions.

² Members Fanning and Jenkins do not agree with Member Zimmerman that Respondent abused the Board's processes by exercising its right to request the Board to reconsider its prior holding in the instant proceeding. They therefore deem unwarranted and punitive his proposal to impose an assessment on Respondent for filing a motion to that effect.